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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,164	01/13/2004	Elliot A. Gottfurcht	4346P001X4	3554

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EXAMINER
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COBURN, CORBETT B

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/757,164

Applicant(s)

GOTTFURCHT, ELLIOT A.

Examiner

Corbett B. Coburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because of the issues noted in the attached Notice of Draftsperson's Patent Drawing Review. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### **Claim Interpretation**

2. Applicant's claims are extremely broad. In fact, some of the claims are so broad that they border on the indefinite. In the interest of prosecution, Examiner has not rejected these claims under 35 USC §112. Instead, Examiner has interpreted the claims to the best of his ability. Examiner has also provided a sampling of art that reads on the invention as claimed. This is a very small sample – the number of patents that read on the present claims is enormous. Applicant is urged to narrow the claims to more closely reflect Applicant's invention.

### ***Claim Objections***

3. Claim 10 is objected to because of the following informalities: Claim 10 recites "simplified navigation interface". It is unclear how this is simplified. Simplified compared to what? Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Xidos et al. (US Patent Number 5,851,149).

**Claims 1, 9, 14:** Xidos teaches displaying a web based game and receiving control input for the game from a television remote control. (Abstract) Xidos teaches that the network used the Internet protocol, therefore the games are web-based.

**Claims 3, 10, 16:** Xidos teaches displaying a set of web-based games as navigation options. The player must have a means of choosing the game. Presumably, these navigation options could be more complex than they are, so they are “simplified” by comparison to some hypothetical “convoluted” navigation interface.

**Claims 4, 13, 17:** Xidos teaches receiving control input from a second television remote control. Fig 2 shows a large number of rooms (50) that may participate in playing the game. In each case, the input is provided by a remote control. Thus there is at least a second remote control providing input.

**Claims 5, 11:** The game is a gambling game. (Abstract)

**Claim 7:** Xidos teaches providing a game matching service to a user – the user chooses a game and is matched to that game.

**Claim 8:** The game control input is unique input – it is provided by each person and will, therefore, be unique to that individual.

**Claim 12:** Xidos teaches displaying the game remotely at a second location on a second television. Fig 2 shows a large number of rooms (50) that may participate in playing the game.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xidos as applied to claim 1 or 14 in view of Handelman et al. (US Patent Number 6,312,336).

**Claims 2, 15:** Xidos teaches the invention substantially as claimed. Xidos teaches displaying a set of game control options (i.e., game selection, betting and game play inputs), but does not specifically teach displaying a set of game control options in a matrix format. The arrangement of the game control options on the screen is a matter of aesthetic design choice for which no stated problem is solved, or unexpected result obtained, by using the specific arrangement of controls on the screen claimed versus the arrangement of controls on the screen taught by the prior art. Furthermore, matters of aesthetic design cannot patentability distinguish over the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). Be that as it may, however, Handelman explicitly teaches displaying a set of game control options in a matrix format. (Figs 2A-E) Arranging control options in a matrix format makes them easier to find and understand. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Xidos in view of Handelman to display a set of game control options in a matrix format in order to make them easier to find and understand.

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8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Xidos as applied to claim 1 above, and further in view of How to "Know When Your Buddies Are Online" (AOL, 1997).

**Claim 6:** Xidos teaches the invention substantially as claimed, but does not teach tracking the online status of a group of individuals designated by a user. Xidos teaches using Internet protocols as the basis for the disclosed system. A chat feature is a well-known feature of the Internet. Providing a chat feature is known to foster a sense of camaraderie that increases the use of a gaming system. (See Falciglia (US Patent Number 5,935,002) which is made of record but not relied upon.) As a part of providing a chat feature, it is well known to track the online status of a group of individuals designated by a user. AOL's Instant Messenger application implemented this not later than 1997. This allows the user to determine if the people he wants to chat with are available. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Xidos in view of the well known state of the art with regard to chat features (as described in "How to Know When Your Buddies Are Online") in order to allow the user to determine if the people he wants to chat with are available, thus fostering the chat feature that is known to attract players.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reference Name	US Patent Number	Applicability
Falciglia	5,935,002	Chat with gaming
Henty	6,094,156	Remote used to access internet & play games
Magallanes et al.	5,925,103	Remote used to access internet & play games

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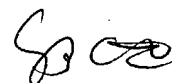
Willner et al.	5,874,906	Remote used to access internet & play games
Lawrence et al.	6,692,358	Remote used to access internet & play games
Gosior et al.	6,684,062	Remote used to access internet & play games
Grant et al.	6,618,039	Remote used to access internet & play games
Smith	6,615,248	Navigation commands in a matrix
Humpleman et al.	6,288,716	Navigation commands in a matrix

As noted above, this is a minute sampling of the art that reads on the current claims. In the interest of prosecution, Examiner urges Applicant to more narrowly define the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Primary, Jessica Harrison can be reached on (703) 308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
cbc  
JESSICA HARRISON  
PRIMARY EXAMINER